



AFB
JFW

PATENT
Customer No. 22,852
Attorney Docket No. 07643.0042-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Russell T. DAVIS et al.) Group Art Unit: 2176
)
Application No.: 10/052,250) Examiner: C. Nguyen
)
Filed: January 23, 2002)
)
For: RDX ENHANCEMENT OF) Confirmation No.: 1920
SYSTEM AND METHOD FOR)
IMPLEMENTING REUSABLE)
DATA MARKUP LANGUAGE)
(RDL))

Mail Stop After Final
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action mailed November 2, 2006. This Request is being filed concurrently with a Notice of Appeal.

I. Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants have met each of the requirements for a pre-appeal brief review of the rejections set forth in an Office Action. The application has been at least twice rejected. Applicants have filed a Notice of Appeal with this Request, and have not yet filed an Appeal Brief. Applicants submit this Pre-Appeal Brief Request for Review that is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005. Therefore, Applicants request review of the Examiner's rejections in the Final Office Action for the following reasons.

~~Adjustment date: 01/29/2007 MAHME1~~
~~01/26/2007 HMARZ11 00000153 10052250~~
~~01-FC:1402 -500.00-00~~
~~01/26/2007 HMARZ11 00000153 10052250~~
~~01-FC:1402~~
~~500.00-00~~

II. Status of the Claims

In the Final Office Action, the Examiner rejected claims 62 and 63 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,721,736 to Krug et al. ("*Krug*"); rejected claim 64 under 35 U.S.C. § 103(a) as being unpatentable over *Krug* in view of the "XBRL Specification" by Hamscher et al. ("*Hamscher*"); rejected claims 1, 2, 5, 6, 11-18, 21, 24-31, 34, 37-43, 46, 49-55, and 59-61 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,370,549 to Saxton ("*Saxton*") in view of U.S. Patent Application Publication No. 2002/0052954 to Polizzi et al. ("*Polizzi*"); rejected claims 3, 4, 19, 20, 32, 33, 44, 45, 56, and 57 under 35 U.S.C. § 103(a) as being unpatentable over *Saxton*, in view of *Polizzi*, and further in view of *Hamscher*, and rejected claims 8-10, 23, 36, 47, 48, and 58 under 35 U.S.C. § 103(a) as being unpatentable over *Saxton*, in view of *Polizzi*, and further in view of U.S. Patent No. 6,134,563 to Clancey et al. ("*Clancey*").

III. The rejection of claims 62 and 63 under 35 U.S.C. § 102(e) as being anticipated by *Krug* is improper

Applicants respectfully request that the Board of Examiners reconsider and withdraw the rejection of claims 62 and 63. In order to properly establish that *Krug* anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 62 recites a data processing system, comprising:

a parser that:

...
interprets tags included in the one or more text documents to create software elements, and
determines the hierarchy of the software elements within a structure representative of the one or more text documents.

(emphasis added). In *Krug*, a syntax tree parser 20 "analyses the HTML syntax structure of the search result document by recognizing the HTML tags within the

document and constructing a hierarchical HTML syntax tree that represents the hierarchical relationship of the syntax elements (tags)" (col. 8, lines 23-27). The Examiner states that the syntax elements in *Krug* constitute the claimed "software elements" (Final Office Action at pages 2-3). This is not correct.

The syntax elements in *Krug* are the tags within the document (col. 8, line 27). By stating that the syntax elements in *Krug* constitute the claimed "software elements," the Examiner is asserting that the tags in *Krug* correspond to both the claimed "tags" and "software elements." Therefore, according to the Examiner's statements, *Krug* interprets tags included in the document to create tags. This is not correct.

Krug analyzes the HTML syntax structure by recognizing tags and constructs a syntax tree that represents the hierarchical relationship of the tags. Neither the tags, syntax elements, nor any other teaching in *Krug* constitute the claimed "software elements" at least because *Krug* does not interpret "tags included in the one or more text documents to create software elements," as recited in claim 62.

Krug fails to teach or suggest at least these elements. Accordingly, *Krug* cannot anticipate claim 62, nor can the reference render the claim obvious. Claim 63 is also allowable at least because it depends from independent claim 62.

IV. The rejection of claims 1, 2, 5, 6, 11-18, 21, 24-31, 34, 37-43, 46, 49-55, and 59-61 under 35 U.S.C. § 103(a) as being unpatentable over Saxton in view of Polizzi is improper

Applicants respectfully request that the Board of Examiners reconsider and withdraw the rejection of claims 1, 2, 5, 6, 11-18, 21, 24-31, 34, 37-43, 46, 49-55, and 59-61. A *prima facie* case of obviousness has not been established because, among other things, neither *Saxton* nor *Polizzi* teach or suggest each and every element recited by Applicants' claims.

Claim 1 recites a data processing system comprising, for example:

wherein a mapper generates a relationship between the data from the one or more sources and the one or more values to be placed within the report.

(emphasis added). The Examiner admits that *Saxton* does not disclose "an editor that develops a report . . . wherein a mapper generates a relationship . . ." (Final Office Action at page 5), but cites *Polizzi* in support of the rejection.

Polizzi does not cure the deficiencies of *Saxton*. In *Polizzi*, repository 235 “is used as a storage device for all information that is to be stored in the portal system” (paragraph 0024). These objects, which may include HTML files, job output reports, executable job files, image files, etc., are stored in repository 235 and arranged “in a hierarchy called categories” (paragraph 0024). *Polizzi* also discloses that a job may produce an output report that may be stored in repository 235 after the job is complete (paragraph 0025). The output report may be based upon retrieved data (Abstract).

The Examiner states that the jobs prepare a report and that *Polizzi* inherently contains a mapper since *Polizzi*’s system prepares a report (Final Office Action at page 5). As stated in the Reply dated August 16, 2006, a component that generates a report that contains processed data does not constitute “a mapper” (Reply at page 8). In response to Applicants’ statement, the Examiner cited new prior art, *Spellman*, which discloses “MAPPER is a commercially available data management and reporting system provided by Unisys Corporation” (col. 8, lines 12-14). Based on this statement, the Examiner asserts that “mapper is a data management and reporting system that generates reports” (Final Office Action at page 16).

The “MAPPER” in *Spellman* is not used in the system of *Polizzi*, and *Polizzi* does not contemplate the use of the “MAPPER.” Moreover, the use of “MAPPER” in *Spellman* does not inherently lead to the conclusion that all reports “based upon retrieved data” inherently include a mapper as stated by the Examiner (Final Office Action at page 5).

Even assuming, absent any teaching, that *Polizzi* discloses a mapper, which Applicants do not concede, there is no teaching that the report contains anything more than a series of values. *Polizzi* does not teach a report that contains a relationship between elements, and *Polizzi* contains no teaching that a mapper inherently “generates a relationship.” Moreover, even if the data in the reports were to define a “relationship,” which Applicants do not concede, there is no teaching in *Polizzi* that a relationship exists between “the data from the one or more sources and the one or more values.” One of ordinary skill would recognize that a report that includes a series of values or status indicators does not, either expressly or inherently, include a relationship between “the data from the one or more sources and the one or more values.”

Therefore, *Polizzi* fails to teach or suggest a mapper that "generates a relationship between the data from the one or more sources and the one or more values to be placed within the report," as recited in claim 1.

Because the cited references fail to teach or suggest each and every element of claim 1 and dependent claims 2, 5, 6, and 11-16, no *prima facie* case of obviousness has been established with respect to these claims. Independent claims 17, 29, 30, 42, and 54, while of different scope, recite elements similar to those in claim 1 and are thus allowable for at least the same reasons discussed in regard to claim 1. Claims 18, 21, 24-29, 31, 34, 37-41, 43, 46, 49-53, 55, and 59-61 are also allowable at least due to their dependence from claims 17, 29, 30, 42, and 54 respectively. Applicants request that the Board of Examiners withdraw these rejections.

V. The rejections of claims 3, 4, 8-10, 19, 20, 23, 32, 33, 36, 44, 45, 47, 48, 56-58, and 64 under 35 U.S.C. § 103(a) are improper

Although the Examiner cites *Hamscher* in the rejection of dependent claims 3, 4, 19, 20, 32, 33, 44, 45, 56, 57, and 64, and *Clancey* in the rejection of dependent claims 8-10, 23, 36, 47, 48, and 58, Applicants respectfully assert that *Hamscher* and *Clancey* fail to cure the deficiencies of *Krug*, *Saxton*, and *Polizzi* discussed above. Applicants request that the Board of Examiners withdraw these rejections.

VI. Conclusion


Because the Examiner's rejections include legal deficiencies, Applicants are entitled to a pre-appeal brief review of the Final Office Action. Based on the foregoing arguments, Applicants respectfully request that the rejection of these claims be withdrawn and the claims allowed.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 25, 2007

By:

 #27432
Jeffrey A. Berkowitz
Reg. No. 36,743
